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ABSTRACT

In March 1992, the New York State Office of the Comptroller performed an audit of Tuition Assistance Program (TAP) awards at the Simmons School, a private business school in White Plains, New York. TAP, the largest student grant and scholarship program administered by the Higher Education Services Corporation, is designed to provide tuition aid to full-time students enrolled in approved programs. Simmons officials contested the results of the audit in the state's Supreme Court, and in December 1993 a revised report was issued conforming to the Court's findings. It was determined that Simmons was overpaid $75,009 because school officials incorrectly certified 85 students as eligible for 245 TAP awards. For TAP eligibility, students attending a registered private business school must be enrolled in an approved program, while the disputed awards were made to students enrolled in the school's 2,400 hour Court Reporting program during a time when it was unapproved. TAP awards were disallowed for students enrolled in the unapproved program, but certified for TAP during the audit period, July 1, 1900 through December 31, 1991. The school must refund the $75,009 overpayment plus applicable interest to the State. Simmons officials were provided with detailed listings of the disallowances. (KP)

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The Simmons School

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June 1, 1995

Dr. Thomas Sobol
Commissioner
State Education Department
Education Building
Albany, NY 12234

Mr. Peter J. Keitel
Acting President
Higher Education Services Corporation
99 Washington Avenue
Albany, NY 12255

Re: The Simmons School
95-T-10

Dear Dr. Sobol and Mr. Keitel:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution, Section 8, Article 2 of the State Finance Law and a Memorandum of Agreement dated December 1, 1989 involving the State Comptroller, the Commissioner of Education, the President of the Higher Education Services Corporation (HESC), and the Director of the Budget, we reviewed the records and procedures used in administering the Tuition Assistance Program (TAP) at the Simmons School (Simmons) for the academic years 1990-91 through 1991-92 (summer and fall terms only).

On March 30, 1992, we issued our final report 92-T-4 resulting from a limited review of the Tuition Assistance Program at the Simmons School. Simmons officials contested the report's findings in New York State Supreme Court. This revised report conforms with the December 3, 1993 New York State Supreme Court decision in the Matter of Simmons School versus Regan, et al.

Summary Conclusions

In accordance with Section 665(3)(b) of the State Education Law, we have determined that Simmons was overpaid $75,009 because school officials incorrectly certified 85 students as eligible for 245 TAP awards during the academic years 1990-91 through 1991-92 (summer and

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fall terms only). Simmons must refund the $75,009 overpayment plus applicable interest to the State.

Background

The Simmons School, located at 190 East Post Road, White Plains, NY, is a registered business school, offering various business-related diploma programs that qualify eligible students for various financial aid programs.

TAP, the largest of the State grant and scholarship programs, is an entitlement program available to full-time students who are enrolled in approved programs at different types of institutions. According to HESC records, Simmons officials certified 90 students for 258 awards totaling $82,000 for the academic years 1990-91 through 1991-92 (summary and fall terms only).

Draft copies of the prior report were provided to Simmons, HESC and SED officials for their review and comment. HESC and SED officials agreed with our conclusion, however, Simmons officials did not agree with SED's determination that the school was offering an unapproved program. Simmons officials responded that "...it is not an unapproved program but rather a renewal gone astray..." In papers filed with the Supreme Court contesting our original report, the school acknowledged that the program was not approved during the period in question. SED officials confirmed that Simmons was offering an unapproved program.

December 3, 1993 Supreme Court Decision

We issued our final report (92-T-4) resulting from a limited review of the TAP program at Simmons on March 30, 1992 which disallowed all TAP awards certified for students enrolled in the Court Reporting-2400 hour program for the 1990-91 and 1991-92 (summer and fall terms only) academic years. SED had determined that the Court Reporting-2400 hour program was not approved during that period. The program's approval had expired on April 30, 1990 and Simmons officials had not met the requirements necessary for the program for the program to be re-approved, as stated in an SED letter to Simmons officials dated October 24, 1990. Specifically, Simmons officials had not submitted the proper documentation to support its student-teacher ratios, copies of mid-term and final exams used to evaluate student achievement, and documentation to establish a goal of 225 words per minute (wpm) for the Court Reporting-2400 hour curriculum.

On December 3, 1993 the Supreme Court of the State of New York decided that SED's refusal to re-approved the program based on the requirement of 225 wpm was arbitrary and capricious. However, the Court ordered the State to "determine when the School complied with the requirements for re-approval stated in the letter of October 24, 1990 other than the 225 wpm goal (such as having the required student-teacher ratio and submitting the proper forms)." The Court further determined that the State "may disallow awards granted to students from April 30, 1990 through period described in the preceding sentence." Subsequently, SED determined that

Simmons met the requirements of the October 24, 1990 letter, with the exception of the 225 wpm goal, on November 1, 1991. Therefore, the Court Reporting program was unapproved for the period April 30, 1990 through October 31, 1991.

Scope of Limited Review

The objective of our limited scope financial and compliance review was to determine whether Simmons' management complied with appropriate laws and regulations for certifying students as eligible for TAP awards, specifically whether the students were in an approved program. The scope of this limited review included the 1990-91 through 1991-92 (summer and fall terms only) academic years. We did not review the internal controls at Simmons or at HESC.

Our review consisted primarily of identifying TAP awards certified for students enrolled in an unapproved program. It is substantially less in scope than an audit in accordance with generally accepted auditing standards. Our review was done in accordance with standards established by the American Institute of Certified Public Accountants.

Results of Limited Review

Section 601.4 of the Education Law requires that for TAP eligibility, students attending a registered private business school must be enrolled in an approved program. The results of our review indicated that 245 TAP awards totaling $75,009 were made to 85 students enrolled in the Court Reporting-2400 hour program during the time it was unapproved.

On June 7, 1990 Simmons applied to SED for re-approval of its Court Reporting-2400 hour program. This program's approval had lapsed on April 30, 1990. SED rejected this request on June 13, 1990 because it was submitted on the wrong forms. The school resubmitted the application for approval on August 10, 1990 and SED denied approval on October 24, 1990 based on Simmons' lack of documentation supporting its student/teacher ratios, lack of documentation supporting tests used to evaluate student achievement and lack of documentation establishing a goal of 225 wpm for the program. Simmons responded to SED's denial on December 18, 1991. SED disapproved the application again on January 2, 1992. Subsequently, upon further submissions by Simmons, SED approved the program, effective February 2, 1992.

The Court Reporting-2400 hour program offered by Simmons was not an approved program after April 30, 1990. SED informed us that Simmons did not meet the re-approval requirements for the program, pursuant to the December 3, 1993 Court's decision, until November 1, 1991. Therefore, we disallowed TAP awards for those students enrolled in the unapproved program and certified for TAP during our audit period, July 1, 1990 through December 31, 1991.

We previously provided Simmons officials with detailed listings of the disallowances including student names, social security numbers, terms and amounts disallowed.

Recommendation to the Higher Education Services Corporation

Recover $75,009 plus applicable interest from Simmons for its incorrect TAP certifications.

Very truly yours,

R. H. Attmore

Robert H. Attmore
Deputy Comptroller

cc: Patricia A. Woodworth
Anthony Squitieri